IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 4896 of 2005

M/S.BAGESHREE DAIRY PRODUCTS PVT LTD.
V/S
RAJ.FINANCIAL CORPORTION

Mr. SS PUROHIT, for the appellant / petitioner

Mr. RAJESH JOSHI, for the respondent

Date of Order : 3.8.2007

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner, that respondent had floated One Time Settlement Scheme, and laid down guidelines for settlement thereunder. The petitioner accordingly applied before the cut off date, deposited the registration fees, and also deposited the upfront amount. Thereupon the matter was processed, and the Branch Office recommended for waiver of interest, and penal interest, as the unit is closed, and the petitioner vide communication dated 12.5.2005 submitted to the Corporation, that the petitioner is ready to settle the matter for a sum of Rs.25 lacks, in One Time Settlement Scheme. But then it was not so settled by the Corporation, and huge demand is being raised, which is contrary to the norms. Various arguments were raised, as to how the Corporation should

behave with defaulting borrowers, by extending their helping hands, and make reasonable efforts for revival of units, instead of closing it down, and relied upon judgment of Hon'ble the Supreme Court, in Mahesh Chandra Vs. Regional Manager, U.P. Financial Corporation & Ors., reported in 1993(2) SCC 279. It was then contended, that pursuant to the order of this Court the petitioner has already deposited Rs.5 lacks, and is prepared to deposit Rs.1 lack within one month, and would pay further amounts within further period of few months, and is ready to settle the matter, therefore, prayed that the action being taken by the Corporation against the petitioner under Section 29, pursuant to the Annex.26, be quashed.

Learned counsel for the Corporation on the other hand invited my attention to the prayer clause of the writ petition, wherein the petitioner has prayed for direction to be issued to the respondent, to consider the petitioner's case under One Time Settlement Scheme, as circulated vide Annex.1, 2, 4, 9 and 11, and submitted, that Annex.1 is the letter dated 4.10.04, then in accordance with the guidelines Annex.2, which were required to be considered under Annex.1, petitioner’s case has been considered. Then inviting attention to para 13 of the reply, it was submitted, that the application was objectively considered, rather the prayer of the petitioner to pre-pone the meeting was considered, and the meeting was held on 12.8.2005, on which date the petitioner's case was

considered, but in view of the adamancy of the petitioner, being insistent upon to settle the matter for Rs.25 lacks only, it was not found possible to settle the matter, and therefore, the prayer was turned down. It was submitted, that one time settlement is to be done under, and in accordance with, the guidelines and norms, and the petitioner could not dictate. It is a different story, that at one point of time, the matter was assailed before this Court at Jaipur Bench, contending that the Corporation is settling the claims at throw away amounts, and thereby causing public loss. It was submitted, that the outstanding amount at that time was bit less than 35 lacks, and could not be settled for Rs.25 lacks. Then the other Annexures are only communications, and thus, it was contended, that the petitioner's prayer is futile, as the case has already been considered, and turned down, on account of the adamancy of the petitioner. Then regarding Mahesh Chandra's case, it was submitted, that, subsequently in the judgments, in U.P. Financial Corporation Vs. Gem Cap (India) Pvt. Ltd. & Ors., reported in JT 1993 (2) SC 226, U.P. Financial Corporation & Ors. Vs. Naini Oxygen & Acetylene Gas Ltd. & Anr., reported in JT 1994 (7) SC 551 and Karnataka State Financial Corporation Vs. Micro Cast Rubber & Allied Products (P) Ltd. & Ors., reported in JT 1996 (6) SC 37, Hon'ble the Supreme Court had taken a contrary view, and then, in para 18 of the judgment of Hon'ble the Supreme Court, in Haryana Financial Corporation & Anr. Vs. M/s. Jagdamba Oil Mills & Anr., reported in JT

2002(1) SC 482, the judgment in Mahesh Chandra's case has expressly been overruled, finding that guidelines in Mahesh Chandra's case are contrary to the latter and the intent of Section 29. It was submitted, that in these circumstances reliance on Mahesh Chandra's case is not only wholly uncalled for, but rather is an attempt on the part of the petitioner to mislead the Court.

I have considered the submissions.

In my view, it is not in dispute, that the petitioner wanted the settlement to be arrived at, at a sum of Rs.25 lacks only, which amount was not acceptable to the Corporation. It is not shown by the petitioner, as to how the amount claimed by the Corporation over and above Rs.25 lacks was not in accordance with the norms and guidelines prevailing at that time, for one time settlement. In that view of the matter, any insistence, or adamancy, on the part of the petitioner, cannot be conceded to compel the Corporation to settle the claim for outstanding, and the amount dictated by the petitioner cannot be accepted, at the cost of violating the guidelines and norms. In that view of the matter, if the proposal of one time settlement had been turned down by the Corporation, no error can be found therein. So far as Mahesh Chandra's case is concerned, a look at the judgment in Haryana Financial Corporation’s case does clearly show, that the judgment in Mahesh Chandra's case has expressly been overruled.

Thus, taken from any standpoint, I do not find any force in the writ petition. The same is, therefore, dismissed summarily.

(N P GUPTA),J.

/sushil/